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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: **Earl et al**

Application No: **10/612,014**

Group Art Unit: **1625**

Filed: **July 3, 2004**

Examiner: **E. Huang**

For: **Nitrosated Nonsteroidal Antiinflammatory Compounds, Compositions and Methods of Uses**

Attorney Docket No: **102258.156 US1**

Commissioner of Patents  
PO Box 1450  
Alexandria, VA 22313-1450

**Provisional Response to Restriction Requirement and  
Request for Reconsideration of Restriction Requirement Under 37 C.F.R. § 1.143**

**I. Introductory Comments**

This response is submitted in reply to the Restriction Requirement dated May 27, 2004, for which a response is due on or before June 27, 2004.

No fee is believed to be due; however, the Commissioner is authorized to charge any necessary fees or credit any overpayments to Deposit Account No. 08-0219 to maintain the pendency of the present application.

**II. Request for Reconsideration of Restriction Requirement**

Under 37 C.F.R. §1.143, Applicants respectfully request reconsideration of the restriction requirement dated May 27, 2004.

The examiner restricted the invention as follows:

Group I	Claims 1-5, 51,55, 56, 58	Compounds and compositions of Formula I or Formula II
Group II	Claims 6-15	Methods for using the compounds of Formula I or Formula II
Group III	Claims 16-17, 29-39, 52-54, 57	Compositions of Formula I or Formula II in combination with other compounds
Group IV	Claims 18-28, 40-50	Methods for using the compounds of Formula I or Formula II in combination with other compounds

The claims in the pending application are generally directed to nitrosated nonsteroidal antiinflammatory compounds, and compositions comprising nitrosated nonsteroidal antiinflammatory compounds, and, optionally, other compounds, and the methods of use for the compounds and/or compositions.

If the nitrosated nonsteroidal antiinflammatory compounds are allowable, then all the compositions requiring a nitrosated nonsteroidal antiinflammatory compounds would also be allowable and all the methods of use for these compositions would also be allowable. In other words every pending claim that requires a **nitrosated nonsteroidal antiinflammatory compound** of Group I or Group II or Group III or Group IV would be allowable.

Additionally, a search of the prior art for the nitrosated nonsteroidal antiinflammatory compounds would necessarily encompass a search of the prior art for the compositions for the nitrosated nonsteroidal antiinflammatory compounds, and, optionally, other compounds, and their methods of use. Thus, the prior art for the nitrosated nonsteroidal antiinflammatory compounds of Group I of Formula I or Formula II, respectively, will also be the same prior art for the compositions and methods of use for the nitrosated nonsteroidal antiinflammatory compounds (i.e., Group II or Group III or Group IV).

### III. Proposed restriction requirement

Applicants respectfully propose the following restriction requirement:

Group I	Claims 1-58 (in part)	Compounds and compositions of nitrosated nonsteroidal antiinflammatory compounds of Formula I, and optionally other compounds, methods of use for the compounds and/or compositions.
Group II	Claims 1-58 (in part)	Compounds and compositions of nitrosated nonsteroidal antiinflammatory compounds of Formula II, and optionally other compounds, methods of use for the compounds and/or compositions.

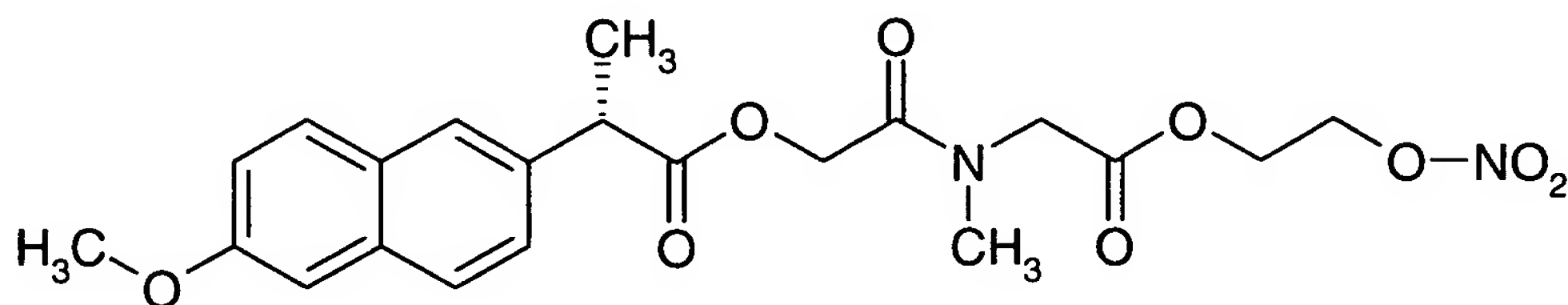
**IV. Provisional Response to Restriction Requirement**

Applicants provisionally elect Group I, claims 1-5, 51, 55, 56, 58 drawn to the compounds and compositions of the nitrosated nonsteroidal antiinflammatory compounds of Formula I, with traverse.

**V. Election of Species**

In response to the election of species requirement, Applicants elect nitrosated nonsteroidal antiinflammatory compound of Formula I, (N-methyl-N-(((2-(nitrooxy)ethyl)oxycarbonyl)methyl)carbamoyl)methyl (2S)-2-(6-methoxy(2-naphthyl))propanoate, with traverse.

This compound has the structure:



The synthesis of this compound is described in Example 20 of the specification at page 82, line 22 to page 84, line 21.

**VI. Conclusion**

Applicants respectfully request that the restriction requirement be withdrawn and be replaced with Applicant's proposed restriction requirement.

An early and favorable consideration and allowance of the pending claims is respectfully requested.

Respectfully submitted,

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